

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
APRIL 11, 2006

46604 The Board of Directors of The Metropolitan Water District of Southern California met in Regular Meeting in the Board Room located in the building at 700 North Alameda Street in the City of Los Angeles, State of California, on Tuesday, April 11, 2006.

Chairman Bannister called the Meeting to order at 11:13 a.m.

46605 Following a color guard from the Belmont High School Junior ROTC Unit and a salute to the Flag, the Pledge of Allegiance to the Flag was given, led by Director Bud Pocklington.

46606 The Meeting was opened with an invocation by retired Chaplain Nick Guest of the United States Army.

46607 Chairman Bannister introduced members of the Disabled Veterans Business Enterprise (DVBE) and Directors who have served in the Armed Forces.

Chairman Emeritus Pace introduced Staff Sergeant Robert Bracy, who was on leave from the United States Army serving in Iraq.

46608 Board Secretary Hansen called the roll. Those answering present were: Directors Abdo, Apodaca, Bakall, Bannister, Blake, Brick, Brown, De Jesus, Dick, J. Edwards, M. Edwards, Fellow, Foley, Griset, Hansen, Harris, Koopman, Kwan, Lewis, Loveland, Morris, J. Murray, W. Murray, Mylne, Pace, Parker, Peterson, Pocklington, Quiñonez, Record, Rez, Sutley, and Wright.

Those not answering were: Directors Grandsen, Grunfeld, Hall, and Veres.

Chairman Bannister declared a quorum present.

46609 At 11:20 a.m., the Chair called a public hearing to receive comments on the proposed Water Standby Charge for fiscal year 2006/07.

Chairman Bannister invited interested parties to comment on the proposed Water Standby Charge for fiscal year 2006/07. No members of the public responded. The Chair declared the public hearing closed at 11:21 a.m., stating that the Board's final action on the proposed charge is expected to take place at its monthly meeting on May 16, 2006 (changed from May 9, 2006).

46610 Chairman Bannister invited members of the public to address the Board on matters within the Board's jurisdiction.

Comments thanking the Board for its outreach effort to help disabled veterans were heard from:

Bob Mulz, Elite DVBE Network
Robert Brown, California DVBE Alliance
Archie Garcia, DVBE Network
Dan Ortiz, Veterans of Foreign Wars

46611 There being no objection, Chairman Bannister ordered the reading of the Minutes of the Meeting of March 14, 2006, dispensed with, a copy having been mailed to each Director.

Director J. Edwards moved, seconded by Director J. Murray and carried, approving the foregoing Minutes as mailed.

46612 A written report of meetings attended by Directors at Metropolitan expense during the month of March was distributed. Directors Abdo, Brick, W. Murray, Peterson, Record, and Morris reported on the individual conferences they attended.

46613 Nominating Committee Chair Brick reported that the committee met on March 28, 2006 and considered candidates to fill the four nonofficer positions on the Executive Committee, three positions for two-year terms effective January 1, 2006 and ending December 31, 2007; and one position for an unexpired term ending December 31, 2006. Following the committee review, the committee nominated Directors Claude "Bud" Lewis, Bill Wright, and Nancy Sutley for the two-year terms; and Director Marcie L. Edwards for the unexpired term.

Committee Chair Brick moved, seconded by Director Morris, the nomination of Directors Lewis, Wright, and Sutley for the three nonofficer positions on the Executive Committee for two-year terms ending December 31, 2007; and Director M. Edwards for the nonofficer position on the Executive Committee for the unexpired term ending December 31, 2006.

Chairman Bannister called for other nominations from the floor. There being none, the Chair called for a vote on the nomination of Directors Lewis, Wright, and Sutley to fill the nonofficer positions on the Executive Committee, each for a two-year term effective January 1, 2006 and ending December 31, 2007; and Director M. Edwards to fill the nonofficer position on the Executive Committee for the unexpired term ending December 31, 2006. The motion was voted upon and carried.

46614 Chairman Bannister reported on the assignments made to the committees, as follows:

Director Peterson - Member, Organization and Personnel Committee

Director Wright - Asset and Real Property Committee

46615 Nominating Committee Chair Brick reported that the committee met on March 28, 2006 to consider filling a position on the Inquiry and Review Committee; and after consideration for the position, the committee nominated Director Ted Grandsen for the position on the Inquiry and Review Committee to fill out the remaining three-year term ending December 31, 2007.

Committee Chair Brick then moved, seconded by Director Blake and carried, that Director Grandsen be elected for the position on the Inquiry and Review Committee for the remaining three-year term ending December 31, 2007.

46616 Chairman Bannister reported on events in which he participated since the last Board Meeting, as follows:

- March 20 - Attended the Community Leaders Breakfast in Fountain Valley hosted by Board Supervisor Jim Silva and featuring General Manager Jeffrey Kightlinger as the guest speaker.
- March 23 - Attended a meeting at the Municipal Water District of Orange County, along with General Manager Kightlinger, Director Foley, and MWDOC Director Barbre regarding the tunnel and Joint Powers Authority-related issues.
- March 23 - Also attended the tunnel-JPA meeting at Western Municipal Water District.
- March 28 - Met with Jonathan Choi, Government Affairs representative from the Building Industry Association to discuss the Green Building Program.

Chairman Bannister announced the fourth annual MWD Solar Cup event will take place May 19-21 at Lake Skinner and invited all Directors to participate.

The Chair invited Director Wright to inform the Board of the upcoming Colorado River salinity inspection trip. Director Wright stated the Colorado River Association is hosting a tour of the Colorado River Salinity Control Forum's activities in the Upper Colorado River Basin from June 28-30 and all Directors are invited.

46617 Director Blake moved, seconded by Director De Jesus and carried, that the Board adjourn the May Board Meeting from May 9 to May 16, 2006.

46618 Organization and Personnel Committee Chairman Loveland reported on the latest discussions on labor negotiations. He stated that the Management and Professional Employees Association (MAPA) has ratified its agreement, and that the District is still in continuing discussions with the Supervisors Association. As far as the Employees Association-AFSCME Local 1902 negotiations, a vote was taken on a proposed contract submitted by the mediator, which was rejected. Director Loveland then gave a presentation summarizing the mediator's

proposal. He stated that another meeting is scheduled for tomorrow with the mediator and AFSCME-Local 1902.

46619 Board Secretary Hansen moved, seconded by Director Morris and carried, and the Board authorized preparation of a resolution of appreciation for the service of John W. Keys, III, Commissioner, Bureau of Reclamation.

46620 Regarding Colorado River, Bay-Delta, and CALFED matters, General Manager Kightlinger referred to the activity report for March dated March 31, 2006, which was distributed earlier.

General Manager Kightlinger commented on the demonstration program on the Colorado River for Lake Mead storage, which is on today's agenda for approval.

Mr. Kightlinger gave the Board an update on recent activities: Regarding the Solar Cup Program, he met with a CEO of an Australian company who would like to have our employee Julie Miller flown to Australia at the company's expense to establish a similar program there. The two-day Engineering and Operations Committee's inspection trip for Directors allowed them to see some of the activities that are taking place. He stated that there is a Capital Improvement Program expenditure of almost \$500 million a year in the current year and next year for a number of projects besides the larger projects like the Inland Feeder - deferred maintenance, repair and rehabilitation of treatment plants, expansion of treatment plants, ozone retrofit projects. He thanked the members of staff who conducted this inspection trip. Mr. Kightlinger reported on his meeting with Congresswoman Mary Bono on Salton Sea issues and the Alamo and New Rivers. Finally, General Manager Kightlinger commended Acting Deputy General Manager Kathy Cole for her work with the member agencies on a bond proposal should the Governor come up with one to be placed on the ballot this year.

From the General Manager's activity report, Director Peterson noted the retirement of former Metropolitan's Director Bonny Herman from the Valley Industry and Commerce Association (VICA), and requested that a resolution be prepared commending her for her leadership there for 15 years and the support of VICA towards Metropolitan.

46621 Regarding Legal Department activities, Interim General Counsel Bennion referred to the General Counsel's activity report for March dated March 31, 2006, which was distributed earlier.

In the *Arizona v. California* litigation, Interim General Counsel Bennion reported that on March 27, 2006, the United States Supreme Court accepted the final report of the Special Master, approved the settlement agreement between the Arizona and California parties and the Quechan Tribe, and entered into a consolidated decree that wrapped up into one document the basic decrees and settlements of the Supreme Court in this matter since the 1960s. She stated that this successfully concludes over 50 years of litigation, although the Court did reserve jurisdiction to hear any subsequent matters that may come up. She commended members of the Legal Department who have worked on this matter over the past several decades.

46622 General Auditor Riss presented a report of the Audit Department's activities for the month of March, dated March 31, 2006. He stated that five Audit Reports were issued during the month. Specifically he noted that the State Water Contract Audit Report; Legal Department Contracts and Settlements Audit Report; Change Management, Quality Control and Quality Assurance Audit Report; Consulting Services - Lee & Ro, Inc. Audit Report; and Information Technology Security Program Audit Report were issued during the month. Mr. Riss stated that all the reports were issued with good opinions—one satisfactory and the other four generally satisfactory. He added that management has satisfactorily responded to the audit comments.

46623 Ethics Officer Elliott referred to the activity report for March dated March 31, 2006, which was distributed earlier.

Dr. Elliott gave an overview of the Ethics workshops to comply with the mandate of AB 1234. She stated that the second in a series of three workshops was held yesterday with 44 Directors attending as compared to 27 at the February 28 workshop, and 20 officers and four member agency representatives. For those who were not able to attend yesterday's workshop, they may get a copy of the DVD and a set of the handouts; and upon review of this material and sending in the acknowledgment card, a certificate of completion will be given for the core content areas covered yesterday. Dr. Elliott

announced that the third and final workshop in this series will be held in September. In order to fulfill the AB 1234 requirements through Metropolitan, attendance at all three workshops is mandatory in order to cover all content areas. In fulfilling this mandate elsewhere, the Ethics office must be notified with a copy of the Certificate of Completion by December 2006. The topics to be covered at the September workshop are misuse of public funds, campaign contributions, laws pertaining to fair processes, and further work on incompatible activities and offices.

Dr. Elliott added that the Ethics Office Strategic Planning Committee will have its initial meeting on Tuesday, May 16, 2006, and requested that any ideas regarding the future of the Ethics Office should be submitted to Ethics Committee Chairman Jim Edwards or Directors Pocklington and Fellow, the other two members of the committee.

46624 Chairman Bannister announced that Agenda Items 7-4 and 8-5 were withdrawn. The following Agenda Items were requested to be added to the Consent Calendar: Director Mylne, Item 8-1; Director Loveland, Item 8-11; Director De Jesus, Items 8-6, 8-7, 8-8, and 8-10; Director Brown, Item 8-4; Director Koopman, Item 8-2. Director Loveland requested that Item 8-2 not be added to the Consent Calendar. Director De Jesus reported that Item 8-9 regarding *Lollett Jones-Boyce v. Metropolitan* was deferred by the Legal and Claims Committee.

Director Blake moved, seconded by Director J. Edwards and carried, and the Board approved the Consent Calendar Items, **M.I. 46625** through **M.I. 46635**, as follows:

46625 Adopted the California Environmental Quality Act (CEQA) determination and approved the dedication of two acres of surplus land located at the intersection of Domenigoni Parkway and Searl Parkway to the City of Hemet for the purpose of constructing and operating a fire station, as set forth in the letter signed by the Chief Operating Officer for the General Manager on March 22, 2006.

46626 Adopted the CEQA determination and (a) appropriated \$520,000 in budgeted funds (Appropriation No. 15395, No. 2, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized preliminary design of Phase II of the

La Verne Shops Upgrade Program at the Weymouth plant, as set forth in the letter signed by the General Manager on March 24, 2006.

46627 Adopted the CEQA determination and authorized the General Manager to express Metropolitan's support for H.R. 4545 (Sanchez, D-Norwalk and Napolitano, D-South Gate), which would amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of Interior to participate in the Los Angeles County Water Supply Augmentation Demonstration Project, as set forth in the letter signed by the General Manager on March 28, 2006.

46628 Adopted the CEQA determination and expressed support for AB 2069 (Maze, R-Visalia) regarding public employment and applicant qualifications, as set forth in the letter signed by the Ethics Officer on March 28, 2006.

46629 Adopted the CEQA determinations and (a) certified the Subsequent Environmental Impact Report, and adopted the Findings of Fact, the Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program; (b) appropriated \$86.8 million in budgeted funds (Appropriation No. 15389, No. 4, from Revenue Bonds, Replacement and Refurbishment or General Funds); (c) awarded a \$70.5165 million construction contract to Kiewit Pacific Co. for the Diemer Oxidation Retrofit Program Site Preparation project; and (d) authorized an increase of \$0.255 million to the existing agreement with MWH Americas for a new not-to-exceed total of \$1.455 million, as set forth in the letter signed by the General Manager on March 24, 2006.

Directors Hansen and Morris requested to be recorded as abstaining.

46630 Adopted the CEQA determination and (a) approved implementation of the demonstration program to intentionally create surplus water for storage in Lake Mead; and authorized the General Manager to enter into (b) an agreement with the U.S. Bureau of Reclamation to create surplus water through a demonstration program, in form approved by the General Counsel, as described in the letter signed by the General Manager on April 4, 2006; and (c) agreements with the Arizona Department of Water Resources and Colorado River Commission of Nevada to forbear uses of Intentionally Created Surplus Water, in form

approved by the General Counsel, as described in the foregoing letter.

46631 Adopted the CEQA determination and authorized the General Manager to execute Amendment No. 1 to the funding agreement regarding Sacramento Regional County Sanitation District's planned expansion of its Sacramento Regional Wastewater Treatment Plant with total agreement costs not to exceed \$450,000, as set forth in the letter signed by the General Manager on March 24, 2006.

46632 Adopted the CEQA determination and authorized amending the contracts with Avila & Putnam by \$100,000 and Geomatrix, Inc. by \$75,000 for services relating to *Cynthia Ward, etc. v. MWH Development Corporation, etc., et al.*, LASC Case No. BC325217 (consolidated with BC325218, BC325219, BC325240, BC325409, and BC335648), as set forth in the confidential letter signed by Assistant General Counsel Barbosa for the Interim General Counsel on March 29, 2006.

46633 Adopted the CEQA determination and authorized increase of \$454,000 in maximum amount payable under contract with Hill, Farrer & Burrill LLP for legal services to defend Metropolitan and increase of \$30,000 in maximum amount payable under contract with Meserve, Mumper & Hughes for legal services to defend Lance Charles in *Carlita Villanueva v. Metropolitan*, LASC Case No. BC296912, as set forth in the confidential letter signed by Assistant General Counsel Barbosa for the Interim General Counsel on March 29, 2006.

46634 Adopted the CEQA determination and authorized settlement with Enron Power Marketing, Inc. and other Enron entities (*Enron Power Marketing, Inc. v. Metropolitan Water District of Southern California*, U.S. Bankruptcy Court, Southern District New York, Case No. SCV 088016, and *Enron Power Marketing, Inc., et al.*, Federal Energy Regulatory Commission Docket Nos. EL03-180, EL03-154, EL02-114-007, EL02-115-008, and EL02-113, as set forth in the confidential letter signed by Assistant General Counsel Barbosa for the Interim General Counsel on March 29, 2006.

46635 Adopted the CEQA determination and approved amendment of contract with Bate, Peterson, Deacon, Zinn and Young to increase maximum amount payable by \$52,000 for a total of \$508,000, as set forth in the letter signed by the General Manager on April 10, 2006.

46636 Budget, Finance, Investment and Insurance Committee Chairman Koopman reported that this item was approved by the committee with one "no" vote. He therefore moved, seconded by Director W. Murray, that the Board adopt the CEQA determination and authorize an increase in the Diamond Valley Lake Construction capital appropriation of \$15,157,827 and the Oxidation Retrofit appropriation of \$1,410,816 for the Cargill settlement to be paid with bond funds, and to increase the FY 2005/06 O&M appropriation by \$16,955,788, as set forth in the letter signed by the General Manager on March 24, 2006.

Director Loveland spoke against the motion since the District had not yet expended all the monies set aside for Diamond Valley Lake and to add \$15 million to that total budget now is premature. Director Loveland suggested that Option #3 in the board letter was more appropriate and that other appropriations should be reduced to fund the Cargill settlement now, and that more monies could be added later if needed.

Vice Chairman Dick withdrew from the Meeting at 12:16 p.m.

Following a discussion on which appropriations and projects the monies should be taken from, Chairman Bannister called for a vote on the motion, which carried.

Directors Lewis, Loveland, Parker, and Pocklington requested to be recorded as voting no.

46637 CALFED/Bay-Delta Oversight Subcommittee Chairman Bakall moved, seconded by Director Brown and carried, that the Board adopt the CEQA determination and the policy principles regarding long-term actions for the Sacramento-San Joaquin River Delta as described in the revised letter signed by the General Manager on April 4, 2006.

Director J. Edwards requested to be recorded as voting no.

46638 The following communications were submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through February 2006 signed by the General Manager on March 24, 2006.
- b. Water Surplus and Drought Management Plan report on water supply and demand as of March 15, 2006, signed by the General Manager on March 24, 2006.
- c. Report on AB 2397 (Calderon, D-Montebello): MWD Service Contracts, signed by the General Manager on April 4, 2006.

46639 There being no objection, at 12:20 p.m., Chairman Bannister adjourned the Meeting in memory of Lorin Griset, father of Director Dan Griset; Violet Hardtner Howell, mother of Director James Blake; and Donald Grandsen, brother of Director Ted Grandsen.

HELEN Z. HANSEN

SECRETARY

WES BANNISTER

CHAIRMAN